Petition

MAR 25 1982
ALEXANDER L. STEVAS
CLERK

81-1778
No. _____

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

ROY CALHOUN
and
JOSEPH MINOGLIO,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent,

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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No._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

ROY CALHOUN

and

JOSEPH MINOGLIO

Petitioners

v.

UNITED STATES OF AMERICA

Respondent

Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Fourth Circuit

Petitioners, Roy Calhoun and Joseph Minoglio, respectfully pray that a writ of certiorari be issued to review the judgment of the United States Court of Appeals for the Fourth Circuit, entered in this case on January 28, 1982.

QUESTION PRESENTED

Whether Petitioner Calhoun's recorded conversations should be suppressed as a violation of Massiah vs. United States, 377 U.S. 201 (1964)?

TABLE OF CONTENTS

	Page
OPINIONS BELOW.	1
JURISDICTION.	1
STATEMENT.	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE	1
ARGUMENT:	
Petitioner Calhoun's recorded conversations should be suppressed as a violation of Massiah vs. United States, 377 U.S. 201 (1964) . . .	5
CONCLUSION.	12
APPENDIX:	
Opinion of the United States Court of Appeals for the Fourth Circuit dated January 28, 1982	1
Pertinent Amendments to the United States Constitution . .	9
Judgment and Commitment Order .	20

TABLE OF CITATIONS

CASES

Hoffa vs. United States, 385 U.S. 293 (1966). 5, 8-9

Massiah vs. United States, 377 U.S. 204 (1964) 5-9, 11

Miranda vs. Arizona, 384 U.S. 436 (1966) . . 6

Powell vs. Alabama, 287 U.S. 45 (1932). . . 6

Page

Spano vs. New York, 360 U.S. 315 (1959). . . . 6

United States vs. Brown, 551 F.2d 639 (5th Cir. 1977) 10

United States vs. Merritt, 527 F.2d 713 (5th Cir. 1975) 9

United States vs. Missler, 414 F.2d 1293 (4th Cir. 1969) . . . 9

CONSTITUTIONAL PROVISIONS

Amendment V 1, 6

Amendment VI 1, 6

STATUTORY PROVISIONS

United States Code:

18 U.S.C. 1961 1

18 U.S.C. 1962(d). 1

18 U.S.C. 1963 1

28 U.S.C. 1254(1). 1

28 U.S.C. 1291 2

Rules

Supreme Court Rule 20.1 1

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1.) is published, but not yet reported. There was no district court opinion.

JURISDICTION

The judgment of the court of appeals was entered on January 28, 1982, and this petition is filed within sixty (60) days of that date in accordance with Rule 20.1 of this Court.

The jurisdiction of this Court is envoked under 28 U.S.C. 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The pertinent text of the United States Constitution, Amendments V and VI and 18 U.S.C. §§ 1961, 1962(d) and 1963 are set forth in the Appendix at page 11.

STATEMENT OF THE CASE

The petitioners were charged in a two (2) count indictment and found guilty of conspiracy to commit racketeering and willfully conducting and participating in the affairs of enterprise through a pattern of racketeering activity; aiding and abetting in violation of 18 U.S.C. §§ 1961, 1962(d) and 1963, after a motion for

serverance was denied.

They were tried by a jury and convicted on April 3, 1980, in the United States District Court for the District of Maryland, Judge Alexander Harvey, II presiding. Both petitioners were sentenced on June 3, 1980. Calhoun received two (2) seven (7) year sentences to run concurrently. Minoglio was sentenced to two (2) six (6) year sentences to run concurrently.

A timely Notice of Appeal was filed by the petitioners to the United States Court of Appeals for the Fourth Circuit on June 25, 1982. Jurisdiction was conferred by 28 U.S.C. 1291. Briefs were filed and the case was argued on December 10, 1981, before the panel of Judges Winter, Phillips and Murnaghan.

On January 28, 1982, the court of appeals filed a published opinion written by Judge Phillips. The circuit court concluded that no violation of the Massiah Doctrine had occurred, and accordingly affirmed the petitioners' convictions.

The relevant facts are found in the

transcript of the March 24, 1980 through April 3, 1980 trial and the Government's Exhibit No. 1. This exhibit is a 235 page transcript of the relevant recorded conversations of both petitioners which was admitted into evidence against both petitioners.

Petitioner Calhoun and a co-defendant, Sidney Allen, were arrested on May 19, 1978, by officers of the Baltimore City Police Department as a result of a raid at 2323 Maryland Avenue, Baltimore, Maryland. Calhoun was charged with bookmaking, possession of flash paper and maintaining a house for a common nuisance.

Officers Klein and Kinkead of the Baltimore City Police Department met with James Hooper, a local bar owner, at his tavern, at his request on August 2, 1978. Hooper offered the officers $500.00 to divulge the name of the informant who provided the information for the search warrant which resulted in the May 19, 1978 raid and the arrest of Sidney Allen.

The officers reported the incident to

their superiors and were instructed to continue dealing with Hooper. The Baltimore City Police Commissioner ilicited the aid of the F.B.I. The F.B.I. directed the investigation thereafter.

Officers Klein and Kinkead were equipped with electronic listening devices after their first meeting with Hooper. On August 23, 1978, the officers first met Sidney Allen at Hooper's bar. At this meeting, Allen offered to pay $500.00 for the identity of the same informant referred to earlier by Hooper.

Allen paid the officers the $500.00 on September 1, 1978, even though the officers declined to identify the informant. He also arranged to make monthly $150.00 payments in an effort to protect his operations from police intrusion. Allen told the officers that he was bankrolled by Calhoun, but that Calhoun had not authorized and was unaware of the payments made to the officers by Allen.

While Calhoun was in trial on the State bookmaking charges, his conversations with the officers were recorded at the Baltimore

City Court House on November 15, 1978 and again on February 8, 1979. Other conversations between the officers and Calhoun were taped at Sabatino's Restaurant.

Conversations between the officers and Minoglio were also taped at the same local restaurant. During one of these conversations, Minoglio informed the officers that all pay-offs heretofore had come from Allen, not from Calhoun or him. No pay-offs of any kind were ever offered to the officers by the petitioners on any of these recorded occasions.

ARGUMENT

PETITIONER CALHOUN'S RECORDED CONVERSATIONS SHOULD BE SUPPRESSED AS A VIOLATION OF MASSIAH VS. UNITED STATES, 377 U.S. 201(1964).

Because surreptitious electronic recording devices have become a favorite tool of zealous law enforcement officials, the Massiah Doctrine is of ever-growing importance. This Court has not provided any guidance on the boundaries to be applied to the Massiah Doctrine since Hoffa vs. United States, 385 U.S. 293, 87 S.Ct. 408, 17 L.Ed.2d 374 (1966). This petition

should be granted so that the demarcations of the Massiah Doctrine will be finally settled by this Court.

The Sixth Amendment to the United States Constitution guarantees a defendant the assistance of counsel in all criminal prosecutions that are initiated against him. It is well-settled that a defendant is not only entitled to effective assistance of counsel during his trial, but also from the time he is arraigned until the commencement of the trial. Powell vs. Alabama, 287 U.S. 45, 53 S. Ct. 55 77 L.Ed.2d 158 (1932).

The Fifth Amendment to the United States Constitution guarantees that a defendant will not be compelled to be a witness against himself in any criminal case. Miranda vs. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), firmly established that a defendant may not be compelled or coerced into making incriminating statements during police interrogations.

If his concurring opinion in Spano vs. New York, 360 U.S. 315, 326, 79 S.Ct. 1202,

3 L.Ed.2d 1265 (1959), Mr. Justice Douglas pointed out that an extrajudicial jailhouse interrogation of an indicted defendant without benefit of his counsel might deny him "effective representation by counsel at the only stage when legal aid and advice would help him."

In Massiah vs. United States, 377 U.S. 201, 84 S.Ct. 1199, 12 L.Ed.2d 246 (1964), the defendant was indicted for federal narcotics law violations. While he was released on bail, he made incriminating statements which were overheard by a federal agent listening to his conversations by surreptitious means.

In ruling that the defendant's own incriminating statements could not constitutionally be used by the prosecution as evidence against him at his trial, Mr. Justice Stewart speaking for his Court provided:

> We hold that the petitioner was denied the basic protections of that [Sixth Amendment] guarantee when there was used against him at his trial evidence of his own incriminating words, which federal agents had deliberately elicited from him after he had been indicted and in the absence of his counsel. It is true that in the Spano case the defendant was interrogated

> in a police station while here damaging testimony was elicited from the defendant without his knowledge while he was free on bail. But, as Judge Harp pointed out in his dissent in the Court of Appeals, if such a rule is to have any efficacy it must apply to indirect and surreptitious interrogations as well as those conducted in the jailhouse. In this case, Massiah was more seriously imposed upon * * * because he did not even know that he was under interrogation by a Government agent. Id. at 206.

In the instant case, Calhoun was also unaware of being interrogated by a Government agent. His conversations with officers Klein and Kinkead were recorded after he had been formally charged with related state gambling charges. On two occasions, these conversations were taped while the petitioner was actually in the Baltimore City Criminal Court House in trial on these related charges. The other conversations were recorded at a local restaurant. Therefore, the Massiah Doctrine should operate to exclude these recorded conversations from the evidence.

Hoffa vs. United States, supra, confined the ruling in Massiah. If a person accused

of one offense makes "incriminating statements... totally unrelated in both time and subject matter to... [the first] trial", suppression of the utterances is not warranted under the Massiah Doctrine. Id. at 309.

The court below relied on United States vs. Merritt, 527 F.2d 713 (7th Cir. 1975) and United States vs. Missler, 414 F.2d 1293 (4th Cir. 1969), to conclude that the instant case falls within the ambit of the Hoffa exception to the Massiah Doctrine. In both cases, the courts of appeal held that a defendant indicted for one offense is not immunized from accountability for incriminating statements uttered subsequently and which tend to prove the crime of bribery.

Merritt and Missler are clearly distinguishable from the case at bar. Here, the State gambling case against Calhoun was inextricably intertwined with the undercover federal bribery investigation. The instant case does not involve two separate offenses. The same factual determinations are entangled in both the state and federal proceedings;

ie., whether the peitioners conducted illegal gambling operations.

Common elements pervade both the state and federal cases. Aside from introducing the tapes into evidence against the petitioners, the Government also introduced a tape recorder, phone recorder, cassette recorder with recorded horse bets, a calculator and gel paper in an effort to support its contention that Calhoun used the items to illegally affect interstate commerce. These articles were seized during the May 19, 1978 raid at 2323 Maryland Avenue and were also utilized against Calhoun at the State gambling trial.

In United States vs. Brown, 551 F.2d 639 (5th Cir. 1977), rehearing granted, 558 F.2d 327 (1978), the defendant was arrested for State charges and was later interrogated by F.B.I. agents. She gave incriminating statements and was later indicted by a federal grand jury for the same offense- possession of stolen merchandise certificates. The court in Brown suppressed the defendant's statements despite the fact that no federal indictment had been issued at

the time of her statement.

The rule in Brown applies equally to the instant case. The right to counsel as applied in Massiah attaches when the investigation against the criminal defendant shifts from the investigatory to the accusatory stage. Calhoun was under State charges when his incriminating statements were made to the police. These incriminating statements do not alone constitute separate crimes.

As in Brown, Officer Klein and Officer Kinkead knew that Roy Calhcun had been arrested on State charges. Yet, they nevertheless continued to investigate and interrogate him. Therefore, the tapes and their transcriptions should be suppressed as a violation of the Massiah Doctrine.

The Government alleged that Calhoun, along with other co-defendants, carried out various illegal activities. Without the evidence derived from the interrogation of Calhoun, it would have been impossible to convict either Calhoun or Mignolio on the federal charges.

CONCLUSION

Petitioners urge review of the judgment of the circuit court which affirmed the district court. If allowed to stand, the decisions below will result in a lessening of the Constitutional guarantees of the Fifth and Sixth Amendments.

Petitioners respectfully pray this Court to grant a writ of certiorari to the United States Court of Appeals for the Fourth Circuit to review and ultimately to reverse the judgment entered below.

Respectfully submitted,

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Appendix

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 80-5108

United States of America,

Appellee,

versus

Roy Calhoun,

Appellant.

No. 80-5109

United States of America,

Appellee,

versus

Joseph Minoglio,

Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Alexander Harvey, II, District Judge.

Argued December 10, 1981. Decided January 28,1982

Before WINTER, Chief Judge, PHILLIPS, and MURNAGHAN, Circuit Judges.

Gerald A. Kroop (Neil W. Steinhorn, Gerald A. Kroop, P.A. on brief) for Appellants; David Queen, Assistant United States Attorney (J. Frederick Motz, United States Attorney, Catherine C. Blake, Assistant United States Attorney on brief) for Appellee.

PHILLIPS, Circuit Judge:

Appellants Calhoun and Minoglio challenge their jury convictions for conspiracy and racketeering activities in violation of the Racketeer Influenced and Corrupt Organizations (RICO) statute, 18 U.S.C. §§ 1961, 1962(d), 1963 (1970). Threee issues were raised on appeal: (1) insufficiency of the evidence to establish an "effect on interstate commerce"; (2) insufficiency of the evidence of Minoglio's guilty; and (3) suppressibility of taped conversations with Baltimore police officers under the Massiah doctrine. We find these contentions to be without merit and therefore affirm the convictions.

As counsel for appellants conceded at oral argument, the first issue was recently decided adversely to appellants' position by this court in United States v. Griffin, No. 80-5124 (4th Cir., Oct. 2, 1981), Slip Op. at pp. 7-8 and n.3. We also do not tarry over the second issue, since the trial testimony of various police officers and tape transcriptions of meetings with one Sidney Allen, an associate of Calhoun and Minoglio, fully support the jury's verdict of Minoglio's guilt.

Discussion of the Massiah issue requires review

of the factual background. As a result of a May 1978 raid by Baltimore police on one of Calhoun's bookmaking establishments, Calhoun was arrested and tried for violations of Maryland gambling laws (bookmaking, possession of flash paper, maintaining a house for a common nuisance). During Calhoun's appearances at the Baltimore City Courthouse in connection with those state charges on November 15, 1978, February 8, 1979 and March 1, 1979, Calhoun talked with two city vice squad officers, Klein and Kinkead, who had participated in the May 1978 raid. Both officers wore concealed electronic recording devices. The officers also surreptitiously recorded conversations with Calhoun and Minoglio, respectively, at a Baltimore restaurant on December 6, 1978, and August 31, 1979.

The tape recorders had been placed on the officers in connection with a large-scale coordinated federal-state investigation of the Calhoun-Minoglio bookmaking operations. That investigation began soon after the officers were contacted on August 23, 1978, by Allen, who offered them monthly payments in exchange for protection of certain telephone

numbers to be supplied them from time to time by Allen. Receiving a report of the attempted bribe, the officers' superiors decided to install the tape recorders and to allow the FBI to monitor the tapes. Payoffs were regularly made by Allen from September 1978 to December 1979, when Calhoun and Minoglio (and others) were federally indicted and arrested for facilitating their illegal gambling operations through corruption, bribery, and attempted bribery of Baltimore City police officers.

The federal racketeering offense was bribery; the challenged tapes were made during the "Investigatory" phase of the RICO case. Although appellants seek to argue to the contrary, the "accusatory" phase of the state gambling case against Calhoun was not inextricably intertwined with the undercover federal bribery investigation, even though it partially overlaps the state case in time span. The conversations were not being recorded in order to gather information about the May 1978 raid which underlay the state charges against Calhoun, nor were the tapes even alluded to at the state trial because the federal investigation was still under way. All of the conversations with

Allen, Calhoun and Minoglio were made before the federal arrest of Calhoun and Minoglio on December 18, 1979.

We read Massiah v. United States, 377 U.S. 201 (1964), and its progeny to say that constitutional rights are violated where the government covertly gathers admissions of some past wrongdoing of which a suspect already stands accused, while different or subsequent criminal acts may be secretly investigated even though the target is under suspicion of another earlier crime. In Massiah itself the suppressed post-arrest conversations, which occurred while the suspect was free on bail after indictment, related to the very facts of the crime for which Massiah had been arrested and charged. This logical linkage between the statements and the pending prosecution was emphasized several times even by the dissenters in Massiah, who repudiated a suppression rule for "relevant, reliable and highly probative" evidence "of the issue which the trial court has before it - whether the accused committed the act with which he is charged." Id. at 208; see also id. at 212. Here the state's indictment involved gambling violations; the state prosecutor

never sought to introduce the tapes at Calhoun's trial for the purpose of proving those charges.

The Court soon after Massiah distinguished its new doctrine from surviving rules of non-suppression, in a case in which a person accused of one offense makes "incriminating statements ...totally unrelated in both time and subject matter to . . . [the first] trial." Hoffa v. United States, 385 U.S. 293, 309 (1966). Hoffa denied suppression in a second trial of Hoffa for the different offense of attempting to bribe jurors in his first trial.

The distinct and separate offense theory in Hoffa has been used to confine Massiah. This court has previously recognized that "incriminating statements made by indicted defendants out of the presence of counsel may not be admitted at trial to prove the charge in the indictment." United States v. Missler, 414 F.2d 1293, 1302 (4th Cir. 1969) (emphasis added). But we also held in Missler that a defendant indicted for one offense is not immunized from accountability for statements uttered subsequently tending to prove another crime. Id. at 1303.

We and at least one other Court of Appeals have thus held that involvement in the solicitation

of bribes, the offense at the foundation of the present case, can constitute a distinct criminal act under appropriate circumstances for purposes of applying the Massiah doctrine. United States v. Merritts, 527 F.2d 713 (7th Cir. 1975). We therefore conclude that the taped conversations between Calhoun and the police were properly admitted at his federal racketeering trial.

AFFIRMED.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an imparital jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against

him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

18 U.S.C. § 1961. Definitions.

(1). "Racketerring activity" means (A) any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigattions), section 1511 (relating to the obstruction of State or local law enforcement), section 1951 (relating to

interference with commerce, robbery or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2314 and 2315 (relating to interstate transportation of stolen property), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), or (D) any offense involving fraud connected with a case under title 11, fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the United States;

(2). "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the

United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3). "person" includes any individual or entity capable of holding a legal or beneficial interest in property;

(4). "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5). "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6). "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United

States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7). "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the dury of enforcing or carrying into effect this chapter;

(8). "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

(9). "documentary material" includes any book, paper, document, record, recording, or other material; and

(10). "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any

department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

18 U.S.C. § 1962 Prohibited activities.

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity of the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of

any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterpirse which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employment by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section.

18 U.S.C. § 1963 Criminal penalties.

(a) Whoever violates any provision of section 1962 of this chapter shall be fined not more than $25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States (1) any interest he has acquired or maintained in violation of section 1962, and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated, controlled, conducted or participated in the conduct of, in violation of section 1962.

(b) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

(c) Upon conviction of a person under this

section, the Court shall authorize the Attorney General to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the United States, it shall expire, and shall not revert to the convicted person. All provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the collector of customs or any other person with respect to the disposition of property under the customs laws shall be performed under this chapter by the Attorney General. The United States shall dispose of all such property as soon as commercially feasible, making due provision for the rights of innocent persons.

United States District Court

FENDANT: ROY CALHOUN

DISTRICT OF MARYLAND

DEFENDANT NO. 2

DOCKET NO. B-79-0493

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date — MONTH: JUNE DAY: 13, YEAR: 1980

___ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

X WITH COUNSEL Gerald A. Kroop, Esquire (Retained)
(Name of counsel)

PLEA

___ GUILTY, and the court being satisfied that there is a factual basis for the plea. ___ NOLO CONTENDERE. ___ NOT GUILTY

FINDING & JUDGMENT

There being a JURY verdict of
___ NOT GUILTY. Defendant is discharged
X GUILTY. as to Counts Nos. 1 and 2

Defendant has been convicted as charged of the offense(s) of
(Count No. 1) U.S.C., Title 18, Sections 1961, 1962(d) & 1963 - Conspiracy to Commit Racketeering
(Count No. 2) U.S.C., Title 18, Sections 1961, 1962(c) & 1963 and 2 - Wilfully conduct and participate in the affairs of enterprise through a pattern of racketeering activity; Aiding and abetting

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Seven (7) Years as to each of Counts Nos. 1 and 2; said terms of imprisonment to run concurrently, making a total period of Seven (7) Years imprisonment.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE JUNE 18, 1980

By _____ CLERK / DEPUTY

SIGNED BY
U.S. District Judge
U.S. Magistrate

ALEXANDER HARVEY, II
ALEXANDER HARVEY, II

Date JUNE 13, 1980

United States District Court

DISTRICT OF MARYLAND

DEFENDANT: JOSEPH MINOTLIO

Defendant No. 3

DOCKET NO. ➤ H-79-0493

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date ➤ MONTH: June DAY: 13, YEAR: 1980

___ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

X WITH COUNSEL Gerald A. Kroop, Esquire (Retained)
(Name of counsel)

PLEA

___ GUILTY, and the court being satisfied that there is a factual basis for the plea, ___ NOLO CONTENDERE, ___ NOT GUILTY

FINDING & JUDGMENT

JURY
There being a finding verdict of
___ NOT GUILTY. Defendant is discharged
X GUILTY. as to Counts Nos. 1 and 2

Defendant has been convicted as charged of the offense(s) of

(Count No. 1) U.S.C., Title 18, Sections 1961, 1962(d) and 1963 - Conspiracy to Commit Racketeering
(Count No. 2) U.S.C., Title 18, Sections 1961, 1962(c) and 1963 Wilfully conduct and participate in the affairs of enterprise through a pattern of racketeering activity; Aiding and Abetting

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) Years as to each of Counts Nos. 1 and 2; said terms of imprisonment to run concurrently, making a total period of Six (6) Years imprisonment. Defendant shall become eligible for parole, under U.S.C., Title 18, Section 4205(b)(2), at such times as the Parole Commission may determine.

SPECIAL CONDITIONS OF PROBATION

[redacted]

SENTENCE RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON THIS DATE JUNE 18, 1980

By _____ ( ) CLERK (X) DEPUTY

SIGNED BY
X U.S. District Judge
___ U.S. Magistrate

ALEXANDER HARVEY, II
ALEXANDER HARVEY, II

Date JUNE 13, 1980